

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

*PRO SE LITIGANT
GUIDE*

Revised 7/01

OFFICE OF THE CLERK OF COURT

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INTRODUCTION

WHO THIS GUIDE IS INTENDED TO ASSIST: This Guide is designed to assist you if (i) you want to file a lawsuit in federal court or you have an active role, either as a plaintiff or defendant, in a case that you or someone else has filed already in federal court, and (ii) you have elected to proceed without assistance of a trained and licensed attorney.

SOME BASIC DEFINITIONS: Plaintiffs and defendants in court cases generally are referred to as the “parties” or “litigants.” The plaintiff asserts a claim or right protected by law against the defendant; the defendant denies the claim or right, and the court determines whether the asserted claims or rights have merit. The great majority of litigants who appear in this court are represented by an attorney who has been trained in the law and is familiar with the applicable court rules and procedures. Parties or litigants who are not represented by licensed attorneys and who elect to represent themselves generally are referred to as *pro se* parties or *pro se* litigants. Likewise, plaintiffs or defendants who represent themselves generally are referred to as *pro se* plaintiffs or *pro se* defendants.

HOW THIS GUIDE WAS DESIGNED TO HELP YOU: This Guide will not answer all your questions about what you need to do to represent yourself effectively as a *pro se* litigant. The Guide outlines the basic steps that are required to properly file an **action**, or **lawsuit**, with this court. It also provides some general guidance on the next steps in the process of litigating the action once you have filed it with the Clerk of Court. However, you are responsible for learning about and following the procedures that govern the court process. Although the staff of the clerk’s office can provide *pro se* litigants with general information concerning court rules and procedures, they are forbidden as a matter of law from providing legal advice, from interpreting and applying court rules, or otherwise participating, directly or indirectly, in any action. In addition, the judges of this court cannot give you legal advice since they will ultimately be charged with ruling on motions submitted by the plaintiff and defendant and with trying the case with or without a jury.

A WORD OF ADVICE: Self-representation carries certain responsibilities and risks *pro se* litigants should be aware of before they proceed. The court encourages all individuals who are considering *pro se* or self-representation to carefully review the risks associated with self-representation and to educate themselves regarding potential consequences.

WARNING: Rule 11 of the Federal Rules of Civil Procedure prohibits filing of lawsuits that are clearly frivolous or filed merely to harass an individual. If after reviewing your complaint, the court determines that you have filed a lawsuit for an improper or clearly unnecessary purpose, it may impose sanctions against you, including ordering you to pay a fine to the court or pay legal fees of the person or persons against whom you filed the law suit. In certain types of cases, such as employment discrimination cases, if you lose, you may be required to pay the legal fees of the winning party. In all cases, if you lose, you may be required to pay some of the costs the winning party incurred in the course of the lawsuit.

SECTION I

IMPORTANT ISSUES YOU SHOULD CONSIDER BEFORE YOU DECIDE TO REPRESENT YOURSELF IN AN ACTION BEFORE THIS COURT

A. IS THIS COURT THE APPROPRIATE COURT TO HEAR YOUR DISPUTE?

The United States District Court for the Middle District of Georgia is one of 94 trial courts in the federal court system. Federal courts can only hear limited kinds of cases. As is the case in all federal trial courts, this court is authorized only to hear disputes that fall into the following four categories:

1. Those that deal with a question involving the United States Constitution;
2. Those that involve questions of federal law (as opposed to state law);
3. Those that involve the United States of America as a party, whether plaintiff or defendant; and,
4. Those that involve a dispute among residents of different states with an amount in controversy over \$75,000.

If your complaint does not fall under any of these categories, you should not file it in this court.

B. IS THERE AN ALTERNATIVE TO APPEARING *PRO SE* (REPRESENTING YOURSELF) THAT IS AFFORDABLE?

Most people who file and pursue litigation in the federal court employ a licensed attorney who practices law, has appeared in court, and is familiar with the rules of procedure that govern court processes. Some attorneys are willing to accept your case on a contingency basis where they would receive an agreed upon percentage amount for their fee if you win your case and nothing if you do not prevail. There are provisions under some laws that require the other side to pay for your attorney should you win your case.

Most attorneys are careful when screening cases before agreeing to accept them in order to make sure potential clients have a viable chance for winning a case which would allow them to collect a fee. If an attorney rejects your case, reasons for such action could be based on

considerations such as:

- (1) There may be no merit to your case;
- (2) You may not be able to prove anyone liable for wrong done to you;
- (3) The wrong done to you may not be severe enough to warrant monetary damages;
- (4) You have no witnesses; or,
- (5) Your witnesses are not credible.

If you would prefer to have an attorney to represent you but are unable to retain one who will take your case on a contingency basis or you simply cannot afford to pay high hourly fees, you may want to consider contacting Georgia Legal Services whose staff can explain the various options for obtaining and paying for legal services.

If you are unable to find an attorney to represent you, you have the right to pursue your claim(s) in the court by appearing without representation or *pro se*, a Latin phrase meaning “for yourself.” Bear in mind that as a *pro se* litigant, you are representing only yourself and presenting only your claims and defenses. Under the law, you cannot speak for another person, a company, or other entity such as a club or association that includes other individuals. When you appear *pro se*, you must follow the same rules and procedures that licensed attorneys practicing in this court must follow. Generally, judges hold *pro se* litigants to the same standards of professional responsibility as trained attorneys.

C. IF YOU PLAN TO REPRESENT YOURSELF, WHERE CAN YOU GO TO REVIEW APPLICABLE FEDERAL LAWS AND PROCEDURES AND THIS COURT’S LOCAL RULES OF PROCEDURE?

As a *pro se* litigant, you should be familiar with the Federal Rules of Civil Procedure and the Federal Rules of Evidence. These rules set forth the general procedural requirements for litigating cases in all federal courts. Federal laws can be found in the United States Code, abbreviated as U.S.C. The contents of each of these publications can be found on the Internet.

As a *pro se* litigant, you also should be familiar with our district court’s local rules which apply specifically to proceedings in our court. You can obtain a copy of the Local Rules at any of our district court offices free of charge or you can access and print a copy of this publication on our court’s Internet web site at:

www.gamd.uscourts.gov

Most public libraries now have computers with Internet access to any of the above publications in the event you do not otherwise have access to those resources.

SECTION II

PROCEEDING WITH YOUR CASE

A. HOW DO YOU GET YOUR CASE ESTABLISHED IN OUR COURT?

Preparing Your Complaint: The **plaintiff** or person bringing the lawsuit to court files a **complaint**. The complaint outlines a problem or reason for the lawsuit, also known as a **cause of action**. When preparing your complaint, you should use 8 ½" x 11" (letter size) paper. The contents should include the following:

- (1) A short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it.
- (2) A short and plain statement of the claim showing that you are entitled to relief; and,
- (3) A demand for judgment for the relief to which you deem yourself entitled.

The complaint (and any other type of pleadings that are filed such as motions, etc.) should contain a caption setting forth the name of the court, the title of the action, the case number (if already assigned), and a designation such as "Complaint", etc. **Refer to Appendix A for the proper format.**

In setting forth your claim against defendants, you are only required to state exactly what happened by stating **facts**, not conclusions, and what relief you want. For example, a complaint setting forth conclusions might read:

"The Commissioner of the Social Security Administration denied me my right to Social Security benefits."

whereas, a complaint setting forth facts would read:

"The Commissioner of the Social Security Administration issued an unfavorable decision on July 27, 1997."

Your statement of claim should not contain legal argument or citations of cases. However,

these may be submitted separately from the complaint if desired.

You should clearly identify all defendants by name and address and it is your responsibility to determine the identity of any and all defendants you wish to sue. It is usual for the name of one or more defendants to be unknown at the time of filing the complaint. Frequently, plaintiffs will identify a defendant by name of “John Doe” or “Jane Doe”. If, after your case has been filed, you determine the proper name of a defendant previously identified as “John Doe” or “Jane Doe”, you should file a **Motion to Amend** your complaint, stating the correct name (and address) of any such defendant.

Check to see that you have included all relevant names, addresses, and dates in your complaint. You may attach as an exhibit any written instrument you have referred to in your complaint which you would like to make a part of the complaint. You must sign the complaint and state your address and phone number. If there is more than one plaintiff, each must sign the complaint as well as all future pleadings.

Filing Your Complaint: Generally, you may file a civil case in the district where any defendant resides or where the claim arose (see 28 U.S.C. § 1391 (Venue generally)). As to which of the six divisions within this district that you should choose to file in, the choice belongs to the plaintiff. According to Local Rule 3.4, a plaintiff may file a civil case in the division in which the plaintiff resides, the defendant resides, or the claim arose. To help you determine which division your case would be filed in, the following information is provided.

The U.S. District Court for the Middle District of Georgia is geographically divided into six divisions: Albany, Athens, Columbus, Macon, Thomasville, and Valdosta. Thomasville is staffed and opens only when court is in session so you would not be able to deliver your lawsuit or any other pleadings to that office for filing; rather, they should be filed in the Valdosta division since all Thomasville case files are maintained by that office. Division offices in this district and associated counties for each are:

- (1) Albany Division: Baker, Ben Hill, Calhoun, Crisp, Dougherty, Early, Lee, Miller, Mitchell, Schley, Sumter, Terrell, Turner, Worth, and Webster;
- (2) Athens Division: Clarke, Elbert, Franklin, Greene, Hart, Madison, Morgan, Oconee, Oglethorpe, and Walton;
- (3) Columbus Division: Chattahoochee, Clay, Harris, Marion, Muscogee, Quitman, Randolph, Stewart, Talbot, and Taylor;
- (4) Macon Division: Baldwin, Bibb, Bleckley, Butts, Crawford, Dooly, Hancock, Houston, Jasper, Jones, Lamar, Macon, Monroe, Peach, Pulaski, Putnam, Twiggs, Upson, Washington, Wilcox, and Wilkinson;

- (5) Thomasville Division: Brooks, Colquitt, Decatur, Grady, Seminole, and Thomas; and,
- (6) Valdosta Division: Berrien, Clinch, Cook, Echols, Irwin, Lanier, Lowndes, and Tift.

You can file your complaint by hand-delivering it or mailing it to the Clerk's Office. Street and post office box addresses and phone numbers for each office are:

U.S. District Court
Clerk's Office
P. O. Box 128
Macon, GA 31202
Street Address:
475 Mulberry Street
Suite 216
Phone:(478)752-3497

U.S. District Court
Clerk's Office
Albany, GA 31702
Street Address:
201 W. Broad Avenue
Phone: (229)430-8432

U.S. District Court
Clerk's Office
P. O. Box 1106
Athens, GA 30603
Street Address:
115 E. Hancock Street
2nd Floor
Phone: (706)227-1094

U.S. District Court
Clerk's Office
P. O. Box 124
Columbus, GA 31902
Street Address:
120 12th Street
Suite 216
Phone: (706)649-7816

U.S. District Court
Clerk's Office
P.O. Box 68
Valdosta, GA 31601
Street Address:
401 North Patterson Street
Suite 212
Phone: (229)242-3616

Whether you deliver or mail your complaint to the court, you must submit: (i) an original and one copy of the complaint, (ii) a completed **cover sheet** (blank forms can be obtained from the clerk's office or from our court's Internet web site at www.gamd.uscourts.gov) and (iii) the \$150.00 filing fee (unless you are proceeding *in forma pauperis* as discussed on Page 13 of this guide). Although pleadings and papers may be filed in any divisional Clerk's Office within this district, it is recommended that they be filed in the divisional office in which the case file will be maintained as indicated above. Once received in the Clerk's Office, the complaint is given a case number and assigned to a district judge.

Service of Your Complaint: Each defendant or person whom the plaintiff claims is responsible for the problem must be notified of the lawsuit through a process that is specified by law. The responsibility for notifying each defendant rests with the plaintiff and is referred to as **service of process**. Detailed instructions for service of process are described in **Rule 4** of the **Federal Rules of Civil Procedure**; you should carefully review this rule to make sure you are familiar with these instructions. If these service of process requirements are not followed correctly, the case can be dismissed for failure to effect proper service.

As described in Rule 4, service of process requirements can be satisfied in one of three ways:

(1) **Personal Service** - Using this method, you direct someone else to deliver or serve a copy of the complaint and summons on the defendant(s). Such service can be performed by anyone who is over eighteen years of age and who is not a party named in the case. Private process servers will do this for a fee.

The standard summons form can be obtained from the Clerk's Office or this court's web site at www.gamd.uscourts.gov and it must be completed by you. After you have completed the form, staff of the Clerk's Office officially **issue the summons** which means that an authorized court employee will sign the form and emboss it with the official seal of the court. Both the summons and the complaint are then served on the defendant. The person who serves the summons must record on the back of the summons form his or her name, the name of the person who was served, and the date and time of service. This section of the summons form is referred to as the **return of service**, and if not completed, service of process is not complete. Rule 4 requires confirmation that service has been completed. Such confirmation or **proof** that the documents have been served on the defendant(s) requires that the original summons form with the return of service completed be returned to the court and that a copy of the form be left with the defendant(s).

(2) **Waiver of Service** - Rule 4 permits a defendant to **waive personal service of process**. This means the defendant agrees to respond to your complaint without being personally served with a copy of it. The Clerk's Office can provide you a waiver form you can mail to the defendant along with the complaint. Alternatively, you can obtain the form from the court's web site at www.gamd.uscourts.gov. If the defendant completes and returns the waiver, you will be spared the burden of personal service as described above.

(3) **Service by the U.S. Marshal** - If a judge approves your application for waiver of the requirement to pay the \$150 case filing fee as described in Section IV of this guide, and otherwise determines that your case should go forward, the judge will direct the U.S. Marshal to serve the summons and complaint at government expense.

After you file your complaint with the Clerk's Office, you have 120 days to serve a copy of it and the summons on the defendant(s). It is your responsibility to effect service; if you fail to do so within the 120 days, your case may be dismissed.

IMPORTANT NOTE: Although a judge may order that a defendant be served with process, it may be several weeks from the date of the order directing service before service is complete. When a judge orders that a defendant be served, typically the order will only require that a copy of the complaint and a waiver of service form be mailed to the defendant's last known address (as provided by the plaintiff). If a defendant refuses to waive service, even though a waiver of service form is sent to him/her, that defendant must then be served by personal service.

B. WHAT HAPPENS ONCE THE DEFENDANT(S) HAS BEEN SERVED?

Once the defendant(s) has been served with a copy of the complaint, the defendant(s) must file with the court an **answer** or some response within a specified number of days. Under the rules governing service of process, each defendant is required to provide a copy of the response to the plaintiff. Once each defendant named in the lawsuit has filed a response, the case is considered to be **at issue**.

C. WHAT HAPPENS WHEN A CASE IS AT ISSUE?

Once the case is at issue, any one of a number of different actions may occur which include:

Referral to a U.S. Magistrate Judge: As set forth in the court's Local Rules, the district judge to whom the case is assigned may refer the case to a **U.S. Magistrate Judge** for assistance in managing it. To do so, an **Order of Referral** is executed. Once a case has been referred to a magistrate judge, subsequent court proceedings may be conducted before that judge.

Filing of Motions and Objections: Either party, the plaintiff or the defendant, may request that the court take specific action related to the case. To do so, the party prepares a formal request or what is referred to as a **motion**. The party then signs the motion, submits it or **files** it with the Clerk of Court and sends a copy to the opposing party. Unless the assigned judge directs otherwise, every motion must be accompanied by a memorandum of law citing supporting legal authorities (see Local Rule 7). The opposing party may then file with the Clerk of Court an **objection** or **responsive pleading** to the motion. This objection sets forth the reasons why the court should deny rather than grant the motion. You should familiarize yourself with the rules and time limits set forth in Local Rule 7 with regard to motions and responsive pleadings filed in this court.

(Dispositive vs. Non-dispositive Motions Defined): Motions fall into two broad categories: dispositive and non-dispositive. **Dispositive** motions, if granted, dispose of the case; **non-dispositive** motions, if granted, affect the case but do not dispose of it. District judges have the authority to rule on both kinds of motions. Magistrate judges are authorized to rule only on non-dispositive motions unless all parties in the law suit have consented to allow their case to proceed entirely with the magistrate judge; if the case has full consent of all parties, the magistrate judge has the authority to rule on both dispositive **and** non-dispositive motions.

Motion Review: The district or magistrate judge normally rules on a motion by issuing a written order that either grants, denies, or partially grants and partially denies the relief sought in the motion. The court generally does not schedule hearings in order for the parties to argue the motion or objections.

Filing of Magistrate Judge Report and Recommendation: Where a case has been referred to a magistrate judge and one of the parties files a dispositive motion, the magistrate judge is authorized to prepare a written **Report and Recommendation**, essentially a recommendation that the motion be either granted or denied and stating the reason(s) why. This Report and Recommendation is forwarded to the district judge assigned to the case and copies are sent to the parties. As a party, you have a certain number of days to file objections you may have to the Report and Recommendation. All objections that are received within the specified time are forwarded to the district judge. The district judge reviews the Report and Recommendation and any objections that have been filed and subsequently issues an order that adopts, rejects, or adopts in part and rejects in part the magistrate judge's Report and Recommendation. Where the judge's order dismisses the complaint, the clerk of court will prepare and enter **judgment** in the case. Such judgment is final and can be appealed to the United States Court of Appeals for the Eleventh Circuit located in Atlanta, Georgia.

Recusal of the Judge: Occasionally, parties involved in a proceeding are unhappy with the decision(s) of the judge who is handling their case so they file a motion requesting that the judge recuse himself to allow another judge to hear the case. A party who is considering filing a motion to recuse should note that a judge's ruling(s) on a particular case rarely provides a basis for requiring the judge to recuse himself from that case.

D. WHAT COURT FEES AND COSTS ARE YOU REQUIRED TO PAY?

The fee for filing a complaint and opening a civil case in any U.S. District Court is \$150 as specified previously under the section entitled **Filing Your Complaint**. This may be paid by cash, money order, or personal check. If you are unable to pay the filing fee, you may apply for permission of the court to proceed *in forma pauperis*, which is Latin for "in the form of a pauper." Information on filing *in forma pauperis* is located in Section IV on Page 14 of this guide.

If the court allows you to proceed *in forma pauperis*, you are not exempted from paying other costs associated with pursuing or litigating your case. If, for example, you need copies of original documents in your case file, the clerk's office is required to charge the standard rate of 50 cents per page. Other expenses you will incur include the costs of preparing the original and copies of the papers you file with the court, and mailing or hand-delivering a copy of each paper to the opposing party to satisfy the requirements of service. If your case goes to trial, you may be responsible for certain costs associated with bringing your witnesses to court.

E. WHAT IS THE PROCEDURE FOR SUBMITTING DOCUMENTS TO THE COURT?

As a matter of policy, the court only requires parties to submit for filing with the Clerk of Court an **original** of motions or pleadings. However, should you need a file-stamped copy of a pleading or motion for your records, submit an extra copy along with the original and a self-addressed stamped envelope for return mailing. The Clerk's Office will file stamp both the original

and the copy, place the original in the court's case file, and return the copy to you. You may file pleadings with the court in person or by mail (see Section II on Page 8 for office locations and mailing addresses). Our offices, with the exception of Thomasville, are open to the public from 8:30 A.M. until 5:00 P.M., Monday through Friday, except on federal holidays. For ease of filing, the Clerk maintains a twenty-four hour filing depository box in each division office (with the exception of Thomasville) which is located outside each building. Directions for filing are provided on the box, enabling parties to stamp documents with the date and time and deposit them at any time, including weekends and holidays. When mailing pleadings to the court or using the drop box, you should include a stamped self-addressed envelope so the file stamped copy can be returned to you.

Important Note: When you submit a pleading to the court, you must also mail or deliver a copy of the pleading to the defendant's attorney, or, if the defendant has no attorney, to the defendant. As an attachment to your pleading, you must include a **certificate of service** that states the date that you mailed or delivered a copy of the pleading to the defendant. The format to be used for the certificate of service is attached to this guide as Appendix B.

F. HOW DO YOU OBTAIN INFORMATION ABOUT THE STATUS AND PROGRESS OF YOUR CASE?

The Clerk's Office maintains an automated record or **docket** for every case. A docket is a chronological summary of all significant events in the history of the case. For example, each time you file a pleading or appear for a hearing, an entry summarizing the event is added to the case docket. You may review the docket on the public access terminals located in public areas of each of our offices. As an alternative, if you have a personal computer and modem with communications software, you may access our court's automated PACER system which will allow you to review your case docket directly from your PC; however, in order to use this system you must register through the Clerk's Office and obtained a password. Once you gain access, you will be billed at a rate of 60 cents per minute. If you wish to have a paper copy of your docket, staff of the Clerk's Office will provide one to you at a cost of 50 cents per page. Clerk's Office staff can also provide basic docket information to you over the telephone.

G. IS IT POSSIBLE FOR YOU TO SPEAK DIRECTLY TO A JUDGE OR MEMBER OF HIS PERSONAL STAFF ABOUT YOUR CASE?

As a party appearing *pro se*, you are prohibited from all private or *ex parte* communication with the judge to whom your case is assigned. *Ex parte* communication occurs when one of the parties to a lawsuit, or when that party's attorney, exchanges information with the assigned judge without the opposing party being present or without the knowledge and consent of the opposing party. Because of this prohibition, a judge will refuse, with very few exceptions, to speak or otherwise communicate *ex parte* with any party, or that party's attorney, to a case that is assigned to him. Any communication between the assigned judge and a litigant should be in writing, and a

copy of the communication should be sent either to the opposing party or that party's attorney. For example, a party appearing *pro se* should send to the opposing party a copy of any letter sent to the judge. Moreover, the letter to the judge should indicate that a copy has been sent to the opposing party.

H. IF YOU WISH TO APPEAL THE COURTS DECISION ON ANY ORDER ENTERED IN YOUR CASE, WHAT STEPS SHOULD YOU TAKE TO DO SO?

There may be times during the pendency of your case in which the judge issues an order with which you disagree and which you may think an appellate court should review immediately. You should be aware, however, that most orders issued while a case is still ongoing cannot be appealed immediately and you will have to wait until a final judgment has been entered in your case before the order(s) can be considered by an appellate court. The Federal Rules of Appellate Procedure explain when an order is appealable and you should familiarize yourself with these rules before filing a notice of appeal. Filing a notice of appeal prematurely will delay final resolution of your case and may add unnecessary expense to your case.

If you file a notice of appeal, you will be required to pay a filing fee of \$105 with the district court unless you are permitted to proceed *in forma pauperis*. If you wish to proceed *in forma pauperis* for purposes of the appeal, then at the time of filing your notice of appeal, you must also file an application to proceed *in forma pauperis* on appeal.

Once the appellate court is determined to have jurisdiction over the appeal, it will direct the district court clerk's office to transmit the record from the district court. If you are permitted to proceed *in forma pauperis* on appeal, you may still be required to pay for certain costs, such as the cost for transcribing any hearings or other proceedings which may have occurred before the judge.

SECTION III

EMPLOYMENT DISCRIMINATION CASES

A very common action filed by *pro se* litigants in federal court is alleged employment discrimination. Prior to filing an employment discrimination complaint, the plaintiff is required to follow specific administrative procedures. **NOTE: This is not a complete statement of the law on the administrative procedures to follow in an employment discrimination case. The procedures are complicated and it is the *pro se* litigant's responsibility to make sure that all procedures are followed correctly and within the applicable time limit. If the requirements**

are not followed, your case may be dismissed.

If you wish to file an employment discrimination case in this court, you must first file your charges with the Equal Employment Opportunity Commission (EEOC) where your case will be reviewed. Barring complications, the EEOC will issue to you a **Notice of Right to Sue** indicating that (i) the administrative process has been completed, and (ii) no further action will be taken on behalf of the EEOC. Once this notice has been issued, you have a limited time period within which to file your lawsuit; failure to file a complaint within that time period will result in your case being dismissed by the court. A Notice of Right to Sue is not issued where the charges allege employment discrimination based on age; however, absence of such notice will not prevent you from filing an employment discrimination complaint based on this premise.

To assist a party appearing *pro se* in filing an employment discrimination complaint, the Office of the Clerk has established a complaint form to be used specifically for this purpose. This form will be provided to you upon request. When completing the form, you should ensure the information you enter is legible and accurate to the best of your knowledge. When filing your complaint with the Clerk's Office, you must present the Right to Sue Notice which will be included as part of your case file.

SECTION IV

APPLICATION TO PROCEED *IN FORMA PAUPERIS*

As noted earlier in this guide, filing a case in this court requires the plaintiff to pay a \$150 filing fee at the time the new case is filed. If you are unable to pay the fee, you may apply to have payment of the fee waived. Bear in mind that you can apply for waiver of the fee only after your action is filed. The Clerk's Office will accept your case without payment if, at the time you file it, you also apply for waiver of the fee. If the judge subsequently denies your waiver application, you will be required to pay the fee; if you do not pay it within a specified time period, your case will be dismissed.

The application process requires that you complete and submit an **Affidavit in Support of Request to Proceed *In Forma Pauperis***. An affidavit is included in this guide as Appendix C. Brief instructions for completing it are as follows:

(1) At the top of the affidavit, you must note the name of the case or case **caption**. The case name consists of your name as plaintiff above the **v.** and the name of the defendant(s) below the **v.** Staff in the Clerk's Office will enter the case number on the affidavit at the time your case is filed.

(2) You must answer all questions truthfully and completely. If you own real estate or

automobiles that have outstanding mortgages or loans, you should be very specific about your debt balance so the magistrate judge who reviews the application has accurate information as to the property's value. You also must sign the statement under penalty of perjury.

The completed affidavit form should be delivered to the Clerk's Office. It will then be submitted along with your complaint to a magistrate judge for review. If the magistrate judge grants the application, it will be returned with the case file to the Clerk's Office for subsequent processing. This does not mean you may not be required to pay the fee at the conclusion of the case in the event the court determines that you then have sufficient funds. The court may direct you by order to pay the full amount immediately, pay a portion of the filing fee, or pay the fee in installments.

If you are allowed to proceed *in forma pauperis*, before directing the U.S. Marshal to serve the complaint and summons at government expense as discussed in Section II.A.3., the magistrate judge will have reviewed your complaint to determine if all, or any, of your claims should be allowed to go forward.

SECTION V

APPOINTMENT OF COUNSEL

Pro se litigants may ask the court to appoint an attorney for them in a civil case. However, counsel is only appointed in a few select cases where representation by an attorney seems particularly appropriate or necessary since *pro se* litigants have no right to be represented by court-appointed counsel and the Court has no funds to pay appointed counsel. If you would like to request that the court appoint counsel to represent you in your lawsuit, you must file along with your complaint a Motion for Appointment of Counsel. In the motion, you should explain why you think you need the assistance of an attorney.

SECTION VI

REQUIREMENT TO DILIGENTLY PROSECUTE YOUR CASE

It is important that you understand fully your obligation to prosecute your case once it is filed.

(1) You are required to diligently prosecute your lawsuit. Unless and until you hire an

attorney to represent you, it is your responsibility to do everything necessary to prepare your case for trial. This includes, but is not limited to, responding to discovery requests and motions and the responsibility to try your case in court.

(2) Do not expect any correspondence or orders from the court containing instructions regarding procedures for prosecuting your law suit. If you fail to follow established procedures, your case may be subject to dismissal for failure to prosecute (see Rule 41(b) of the Federal Rules of Civil Procedure).

(3) Pursuant to Local Rule 5, disclosures as addressed in the Federal Rules of Civil Procedure, Rule 26, section (a)(3) must be promptly filed as provided in this rule and section. However, disclosures as addressed in the Federal Rules of Civil Procedure, Rule 26, sections (a)(1) or (a)(2) and the following discovery requests and responses must not be filed until they are used in a proceeding or the court orders filing: (a) depositions, (b) interrogatories, (c) requests for documents or to permit entry upon land, and (d) requests for admission. Except with prior written permission of the court first obtained, interrogatories (see Local Rule 33.1) may not exceed twenty-five (25), requests for production (see Local Rule 34) may not exceed ten (10), and requests for admissions (see Local Rule 36) may not exceed fifteen (15). All discovery must be addressed to a specific defendant if there is more than one defendant named in your case.

(4) You are required to serve the attorney representing the defendant with copies of all pleadings and motions filed with the court. Likewise, counsel for the defendants are required to serve you with copies of all pleadings and motions filed on behalf of the defendant(s).

(5) Sometimes, plaintiffs will attach a certificate of service indicating that the Clerk of Court has been served with copies of pleadings or motions. This is not appropriate and the certificate will be disregarded since it does not satisfy service requirements. It is your responsibility to serve the defendant(s), not the Clerk's Office.

(6) As explained previously, you should familiarize yourself with the rules and time limits set forth in Local Rule 7 with regard to motions and responsive pleadings filed with this court. It is possible for a motion to be denied because response or reply briefs to the motion are not filed with the court in a timely manner.

(7) It is your responsibility to keep the court informed at all times of your current mailing address. If you have a change of address at any time while your case is pending, you must notify the court and all parties to the case **in writing** stating your new address.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
_____ DIVISION

(Name of Plaintiff) _____	:	
Plaintiff	:	
vs.	:	Civil Action No.
	:	
(Name of Defendant(s)) _____	:	
Defendant	:	
	:	
	:	

COMPLAINT

(Double space text of complaint)

Now comes the above plaintiff and shows the Court the following:

1.

(Show plaintiff's residence or address.)

2.

(Show defendant(s) address(es).)

3.

(State briefly your legal claim or your reason for filing suit. Include the statute under which the suit is filed.)

APPENDIX A (Contd)
COMPLAINT FORMAT

4.

(Give a brief, concise statement of the specific facts involved in your case.)

5.

(State the relief you are requesting.)

(Signature and date)

(Address)

(Phone Number)

APPENDIX B
CERTIFICATE OF SERVICE FORMAT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing _____
(Name of pleading)

was mailed/delivered to _____ at _____
(Name of defendant(s) or defendant's attorney) (Address)

on _____, 20____.

(Signature and date)

(Address)

(Phone Number)